

# PROJECT INFORMATION DOCUMENT (PID) CONCEPT STAGE

Report No.: PIDC23175

<b>Project Name</b>	Technical Assistance for the Afghanistan Land Authority - Arazi (P153932)
<b>Region</b>	SOUTH ASIA
<b>Country</b>	Afghanistan
<b>Sector(s)</b>	General agriculture, fishing and forestry sector (20%), Public administration- Agriculture, fishing and forestry (80%)
<b>Theme(s)</b>	Land administration and management (70%), Judicial and other dispute resolution mechanisms (10%), Other social development (10%), Other accountability/anti-corruption (10%)
<b>Lending Instrument</b>	Investment Project Financing
<b>Project ID</b>	P153932
<b>Borrower(s)</b>	Ministry of Finance
<b>Implementing Agency</b>	Afghanistan Independent Land Authority (Arazi)
<b>Environmental Category</b>	B-Partial Assessment
<b>Date PID Prepared/ Updated</b>	26-Apr-2015
<b>Date PID Approved/ Disclosed</b>	26-Apr-2015
<b>Estimated Date of Appraisal Completion</b>	01-Sep-2016
<b>Estimated Date of Board Approval</b>	17-Jan-2017
<b>Concept Review Decision</b>	Track II - The review did authorize the preparation to continue

## I. Introduction and Context

### Country Context

Afghanistan continues to struggle to overcome almost three decades of war and civil strife. Its political context remains complex and dominated by ongoing insurgency, narcotics production, and weak governance and rule of law. After twelve years of state building Afghanistan remains a fragile state.

The Afghan economy needs sustainable sources of long-term inclusive growth. The extremely high level of current annual aid (estimated at \$15.7 billion in 2010) is roughly the same dollar amount as Afghanistan's Gross Domestic Product (GDP) and will not be sustained at such levels post 2014. This slowdown in aid will exert a drag on the overall economy at a time when growth is vitally

needed to cope with fiscal and demographic pressures. Growth, under reasonably optimistic scenarios, is projected to fall from a ten year average of over 9 percent to between 5-6 percent in 2011-18. By 2021-22, the Government of the Islamic Republic of Afghanistan's (GoIRA) financing gap is projected to be 25 percent of GDP. Unemployment and underemployment, already at 8 percent and 17 percent in 2011-12 is projected to rise just as the labor force is expanding by 300,000 new entrants per year. The youth unemployment as a proportion of total unemployment stands at 39 percent (NRVA 2011/12).

Natural resources and agriculture are the only sectors with the potential to drive such growth. While Afghanistan's growth is projected at an average annual rate of 4.9 percent during the period of the transformation decade 2014-25, there is a potential to increase it to 6.7 percent, depending on an appropriate enabling environment, including security, and good progress in the two key drivers of growth, agriculture and the resource sector. In a high-growth scenario, the latter will directly contribute 3 percent to growth during 2014-17, and then 1.6 percent in 2018-25. However, this growth will not be inclusive unless it is leveraged to create broader benefits and growth breaks out of "enclave" investments.

The delivery of basic government services, especially for land administration and management and including land registration and dispute resolution, has not met the expectations of citizens, while mechanisms to hold the government accountable for delivery of such services have been undermined by corruption and lack of capacity. GoIRA's strategic vision for the Afghanistan Independent Land Authority (Arazi) seeks to achieve this through the provision of a balanced approach between pro-poor land administration services in support of individual and collective tenure security through land registration and land allocation and the provision of land to support private sector investment in infrastructure, natural resources, agriculture and industry.

It is critical that Afghanistan develops an effective land administration and management system with the capacity to respond to users' demands in order for the state to provide a stable and secure land and property rights system for citizens and investors. While recognizing that outcomes from investments in the land sector are long term in nature, GoIRA will also face increasing pressure to show progress in service delivery. An effective, efficient and transparent land administration and management system is crucial to the establishment of stable conditions necessary for peace, economic growth and poverty reduction. However, the establishment of services will have to be undertaken within the context of decreasing external resources for investment in all areas: from infrastructure, to equipment, to personnel and operating and maintenance capacity.

### **Sectoral and Institutional Context**

More than 85 percent of the Afghan population is living in rural areas, and with 80 percent of the workforce in the agricultural sector that comprises 60 percent of its GDP, the Afghan population is decidedly dependent upon land and natural resources. Investments and growth in agriculture and agriculture-based industries heavily depend on a transparent policy and regulatory framework. Equitable growth and employment generation in the agriculture sector, agribusinesses and extractive industries depend on clear and secure land rights that protect the resource access of the poor, prevents land grabbing, and balances the interests of investors and in particular small landholders.

At the present time, however, a lack of tenure security and clear land related legal and policy frameworks are causing conflicts among individuals and between communities and the state. These conflicts are exacerbating past and present ethnic and religious tensions, impinging upon current

development and rehabilitation programs, affecting healthy and sustainable development of the agricultural sector and undermining public trust in the ability of government to promote development and protect citizens and their rights. Land was flagged as a major unmet issue for private sector development in the current ISN and noted as warranting more attention.

Land tenure, the system by which land is owned and managed, has a significant influence on the agricultural sector, which as indicated will be the cornerstone of rural development, (agricultural) growth, agribusiness development and employment generation for the foreseeable future. Also land tenure is the cornerstone of urban settlement, planning and development. The current institutional framework for land management and administration is not conducive to an inclusive economic development. Outdated systems, overlapping responsibilities, lack of capacity at local levels, conflicting systems for land ownership, and uncertain or incomplete legal frameworks, compounded by decades of conflict and widespread displacement, result in competing claims to land and conflicts between individuals, among communities, and between citizens and the state. The resulting lack of tenure security and the far majority of legal disputes are reportedly related to land issues, although still, a large proportion of people seek dispute resolution through informal justice mechanisms.

Conflict, vulnerability, and land disputes have been greatly heightened by the massive population displacement that has occurred in Afghanistan. Hundreds of thousands of refugees and displaced Afghans have returned to their homes since 2002, and many citizens remain displaced within the country. The return to normalcy and resettlement of displaced people is seriously hampered by the conflicting claims to land, lack of security of tenure, and the lack of an appropriate policy and strategy for their reintegration. Many displaced persons are poor and vulnerable, and their needs require responses beyond short-term and ad hoc strategies. In 2002, when massive repatriation of refugees occurred, the UNHCR reported that 74.3 percent of returnees did not have access to farmland and there has been a definitive link between displacement and increase in land disputes, particularly between different ethnic and religious groups. Internationally, restoration of property rights is recognized as a major factor in enabling IDPs and returning refugees to restore their livelihood.

The most potent of the communal land-related conflicts are between pastoral nomads and settled farmers, over access to contested pasture lands, and disputes over pasture lands represent up to 60 percent of all land disputes. Many of these conflicts are rooted in contesting groups' alignment with different and shifting power alliances at central level. Claims by different parties, including in particular the state, on non-farm lands, i.e. pastures has included the state as a major party in many conflicts over land.

The Afghan government and a number of donors (including the World Bank, Asian Development Bank (ADB), USAID and the United Kingdom's Department for International Development (DfID)) over the past decade, have piloted approaches to various elements of land administration, land management, land dispute resolution and so forth. For example, a community-based natural resource management approach was tried and developed through the ADB/DfID-funded Rural Land Administration Project (RLAP: 2006-07) in four test sites. A related approach, developing community-based land disputes resolution was piloted under the World Bank/Institutional Development Fund (IDF)-funded Building Capacity to Address Land-Related Conflict and Vulnerability in Afghanistan, focusing on informal conflict resolution systems and a participatory and consultative approach to resolve land disputes. Most recently, USAID supported the Land

Administration Reform in Afghanistan (LARA: 2011-2014) project in support of Arazi and the Ministry of Agriculture, Irrigation and Livestock (MAIL), which focused on upgrading and formalization of urban, informal settlements, legal framework, capacity building, and cross-cutting themes of the land sector.

Afghanistan lacks an effective, transparent, accessible administrative system of land registration. In only a relatively small proportion of the country, and primarily in urban areas, do landowners hold court-registered deeds. The judicial system of land administration is widely acknowledged as being corrupt, favoring the powerful and being not pro-poor. International good practice is to move to administrative systems for land registration and this is the model preferred by ARAZI, its cadastral department and many from civil society – and is reflected in the proposed amendments to the Land Management Law.

A National Land Policy was approved by the cabinet in 2007, but the main land related laws are neither fully aligned with the National Land Policy, nor are they supported by proper regulatory frameworks. In addition, the limited and outdated land cadaster (covering only around one-third of total land) and land registration plus the prevalence of customary claims, and communal land rights pose substantial problems for resolving conflicts and disputes. As a result, access to land is one of the major constraints for private and public investments across all sectors. Agricultural development, and rangeland rehabilitation is severely hampered by the lack of clear tenure rights.

There is no country specific resettlement policy in Afghanistan, and both the draft Law on Land Management and the draft Law on Land Expropriation are yet to be approved and fully operationalized in terms of requisite implementing rules and regulations. They still fall short of good international practices in several areas. The lacunas in the regulatory framework are further compounded by the weak implementation capacity and coordination difficulties on the government side, and results in substantial inconsistencies in application of the law.

The Arazi leadership is aware of the issues and challenges and has responded by formulating an Operational Strategy that envisages improvements in governance and service delivery by establishing a transparent policy and regulatory framework building on the National Land Policy, moving to an administrative land registration system, and revising the Law on Land Management and the draft Law on Land Expropriation to be more explicitly pro-poor. Arazi currently has about 1,100 civil service staff, plus 200 contract staff. 300 are employed the Kabul Central Office, 1,000 in 34 provincial offices. Capacity building to increase their technical knowledge and performance, and improve the quality of service delivery, will be important to the success of the project.

### **Relationship to CAS**

Afghanistan's development depends to a large extent on the efficient use of its land resources. Demand for agriculture land and for commercial development is high, while at the same time, the Government puts a lot of efforts into developing Afghanistan's physical infrastructure. Afghanistan's development depend on putting in place an institutional framework that allows efficient and effective allocation of land, the provision of land for public infrastructure, the resolution of conflicts over access and usage of land, and the establishment of a comprehensive land information database, based on a transparent land governance structure with adequate checks and balances in place. In May 2013, Arazi was designated as the independent government entity for land administration and management in accordance with the Cabinet Resolution # 11 dated 27 May 2013.

The Arazi Support Project supports all three strategic pillars of the ISN (2012-14): (i) building the capacity of the state and its accountability to its citizens; (ii) promoting growth of the rural economy and improving rural livelihoods; and, (iii) supporting growth of the formal private sector.

The land sector and the judicial approach to land registration in Afghanistan are marred by corruption. The existing system is not pro-poor and beyond the reach of almost all Afghan citizens. Only a very small proportion of the country is covered by registered deeds under the court system. Different projects have over the last ten years made efforts to digitize the courts' land documents. However, even in the recent effort to this effect by the Afghanistan Investment Climate Facility Organization (Harakat) land records and documents are not verified in the process, nor has it any influence on the courts' performance on land issues. Arazi in its Operational Strategy emphasizes the preference of an administrative land registration system. The establishment of Arazi as an independent authority enables the country now to move to an administrative system of land.. International good practice indicates that an administrative system is more efficient, effective, pro-poor and is more conducive to supporting business investment. However, the challenges for Arazi are enormous as a lot of pressure can be expected to retain the status quo, which favors the powerful and is prone to corruption.

The proposed project will especially address the Second ISN Pillar by supporting the tenure security of rural landowners and assisting with the formulation of a pro-poor land allocation policy. More than 85 percent of the Afghan population is living in rural areas and by occupying 60 percent of the working population, agriculture is by far the largest employer, which means that rural development will continue to play a crucial role for the sustainability of growth. The effective management of land is critical to Afghanistan's development particularly so as only about 12 percent of total land area is arable. The actual area under cultivation each year is substantially less than that, mainly because of shortage of irrigation water, which leads to most arable land being cropped on rotational basis.

Furthermore, the proposed project supports the Third ISN Pillar, by facilitating the access to land for private sector investment through the development of transparent procedures and monitoring land leasing. The proposed project complements the Afghanistan Resources Corridor Project (ARCP) but looks more broadly beyond the resources corridor to support private investment nationally. Under the third pillar, promotion of land access for private investment will provide for growth and development of mineral resources, infrastructure, manufacturing, communities and employment-creating sectors, viz. agriculture, construction and enterprise development.

## **II. Proposed Development Objective(s)**

### **Proposed Development Objective(s) (From PCN)**

21. The Project Development Objective (PDO) is to support the Afghan Government to develop the policy and regulatory framework and build capacity to deliver transparent, pro-poor land services.
22. The project aims to support:
  - a. the establishment of an affordable and accessible land registration system;
  - b. raising public awareness, knowledge and understanding about laws and regulations

governing the land sector;

- c. developing processes and service standards for Arazi's core functions;
- d. improving the implementation capacity of the Afghan Government to deliver its services;
- e. the effective and efficient use of state land for equitable socio-economic development.

### **Key Results (From PCN)**

23. Key results are:

A. Administrative land registration system designed and approved.

This will include the development of policy and regulatory framework and the development and testing of key processes and procedures to also enable registration of informal/customary claims and communal land rights (including usufruct rights).

B. Land information system (LIS) developed and under implementation.

This will include the design of a "fit-for-purpose" LIS, to support the land administration and management, with survey maps and plans computerized, stored and easily accessible.

C. Administrative dispute resolution system operational and monitored.

This will include the development and official recognition of community-based systems for land disputes resolution.

D. Land access system and procedures for gender sensitive, pro-poor land allocations and investment developed and operational with monitoring.

This will include the development and endorsement of a policy and implementation procedures for the allocation of state land to poor and landless families. The development of transparent implementation processes and procedures for state land allocation for private investments will also contribute to growth and employment.

E. Arazi is strengthened and with improved capacity to deliver its public sector functions in the land sector.

This will include the establishment of a training center and the development of processes for more efficient and effective service delivery.

24. The key beneficiaries of the project will be: (i) the individuals, families and communities who will receive secure tenure rights and better, affordable access to land administration services based on administrative rather than judicial processes; (ii) landless people who receive secure access to land for their homes and livelihoods; (iii) private investors who receive allocations of land for investment purposes in accordance with accountable and transparent land management; (iv) Arazi which will enhance its capacity, is strengthened to deliver services in accordance with agreed services standards; (v) citizens and businesses who will be able to access independent, accountable administrative procedures for land dispute resolution. Arazi, as the national authority responsible for land administration and management, must be strengthened to ensure it can serve the needs of both the poor and investors to support the socially responsible economic development of Afghanistan.

## **III. Preliminary Description**

### **Concept Description**

The project is designed as primarily a technical assistance (TA) project that will prepare and strengthen the newly independent Arazi for its tasks as a transparent and responsive service provider in the land sector. Development of policies, regulations and implementation procedures and respective staff capacity will be driven by a gender-sensitive and pro-poor approach, which will

facilitate the role of the land sector in equitable economic growth and employment generation. The project will build on the assistance and earlier achievements of land sector support interventions. This particularly includes the assistance to Arazi provided under ARCP. The LGAF, currently being conducted, will provide further guidance for the detailed project design.

The proposed project is envisaged as a the first phase of a longer engagement in the Afghan land sector, initially focusing on institutional strengthening, capacity building and policy development of Arazi in support of land sector reform. The project will build upon the lessons and experiences of LARA and its predecessor, the Land Tenure and Economic Restructuring Activity (LTERA) Project (2004-09). Support under this project will be aligned with the assistance provided under the ARCP. It will also support the implementation of Arazi's operational strategy to become a modern public land services institution. Under ARCP, support will be provided to Arazi, to begin the process of "clearing" titles to land along the key resource corridor segments. "Clearance" refers to the surveying of land, cataloging the claims to parcels of it, and resolving such claims to establish clear titles. ARCP is planning to fund the equipment and staff needed to initiate this task, which is an urgent priority for the development of the resource corridor, since land acquisition will be on the critical path of many investments, and title clearance is a pre-requisite for socially responsible acquisition. The support for the Land Clearance process under this project, as well as all other support, will be guided by the urgent need for more transparency and stronger community involvement to protect the rights and livelihood of people affected by land acquisition. This will involve the design of country-specific processes that are also compliant with Bank safeguard policies.

Specifically, the proposed project will consist of four components focused on institutional strengthening and capacity building of Arazi through the development of an administrative system of land registration, policy and land access, which are further described below.

#### Project Components:

##### Component 1: Development of a Modern Land Registration System

This component will support the development of an administrative land registration system that draws upon relevant international good practice and modern technology and delivers affordable accessible services to individuals, the community and business in accordance with accountable, transparent services standards. The Cadastral Department under Arazi reports that by around 1970, it had surveyed around 34 percent of the country. There is a need to review and update these old plans and computerized records. Further, the current capacity of Arazi to cover the country, both rural and urban, using conventional field surveying, especially given security issues, will preclude the completion of a national mapping coverage of land parcels from being achieved in the short-medium term. New technology involving imagery acquisition from high resolution and aerial means will be tested and Arazi needs to adopt Information Communications Technology (ICT) as a key element of its service delivery.

Three subcomponents will deal with (i) the Land Registration System Development, and (ii) Institutional Strengthening and Capacity Building for Arazi at national and subnational level; and (iii) Public Awareness Raising, including the development of IEC material and training of facilitators. It will also particularly include public awareness raising about people's right in land issues, including the awareness about grievance mechanisms to be developed by Arazi in line with international good practice and Bank requirements.

### Component 2: Strengthening Land Policy and Regulatory Framework

There are numerous polices and laws, enacted or under preparation in different Ministries, that impact on the land sector, including the Forestry Law, Rangeland Law, Mineral Law, Environment Law and others. This component would support the review and where applicable the revision of the land policies and laws, including laws and implementing regulations to enable ARAZI to implement its mandate under the Law on Managing Land Affairs and other laws, including the Law on Land Expropriation, in a consistent framework and in accordance with pro-poor land policies and good land governance. Afghanistan's current Land Policy was approved by Cabinet on 3rd September 2007. This policy document is still relevant and provides the guidance for the institutions acting in the land sector. However, it is in need of update, and reflecting Arazi's new role and plans in the land sector. The project's policy program will draw upon priorities agreed under the Land Governance Assessment Framework (LGAF) and associated policy dialog with GoIRA funded under the ARCP.

Two subcomponents will address (i) Land Policy Development, including support of drafting laws and regulations and support for the establishment of the envisaged High Council for Land; and (ii) Land Dispute Resolution, including an assessment of experiences and the regularization of processes of local customs and traditions. This subcomponent would fund technical advisers, and a comprehensive, participatory consultation and public awareness rising process as well as training of the policy secretariat staff and incidental costs for meetings of the council.

### Component 3: Land Access

1. This component will support the formulation of a policy and the establishment of transparent and accountable procedures for the allocation of state land for (a) landless individuals and families to provide for secure tenure in support of housing and livelihoods in rural and urban areas; and (b) the allocation of land to support private sector investment in agriculture, natural resources, infrastructure and industry through land distribution, land leasing and establishment of industrial parks. This subcomponent will focus on the development of a land allocation policy and strategy with potential piloting of agreed approaches. Land allocation and land access procedures will focus on using undisputed public land for distribution and will include a strong public consultation process around intended uses of such land. Even though absolutely no resettlement should be envisaged, processes will include mechanisms for fair and just compensation should any land acquisition possibility be include in policies and procedures. . All proposed law amendments, regulations and procedures will be subject to an Environment and Social Assessment (ESA), to assess potential downstream impacts.

Two subcomponents are envisaged to address the need for (i) Land Allocation to Landless Poor, including the development of procedures for land identification, eligibility criteria and supporting services; and (ii) development of more transparent procedures for Land Access for Private Sector Investment, including improvements in accountability, compliance and reporting.

### Component 4: Project Management

This component will support overall project management through: (i) providing any necessary key contract staff in the Project Implementation Unit (PIU) to assist Arazi in managing project implementation including procurement and financial management; and coordination with other



projects including the Afghan Resources Corridor Project; (ii) monitoring and evaluation (M&E) of project implementation; and (iii) hiring technical assistance (TA) to support project implementation and capacity building of Arazi. As part of the advisory role on institutional strengthening, Arazi will be assisted in complying with CBR principles and integrating into the CBR program.

Two subcomponents will address (i) Project Management, Monitoring and Evaluation, establishing and running a Project Implementation Unit (PIU) and an efficiently and effectively operating M&E system; and (ii) the need for Technical Assistance, including the financing of technical advisors and critical equipment for implementation.

#### IV. Safeguard Policies that might apply

Safeguard Policies Triggered by the Project	Yes	No	TBD
Environmental Assessment OP/BP 4.01	x		
Natural Habitats OP/BP 4.04		x	
Forests OP/BP 4.36		x	
Pest Management OP 4.09		x	
Physical Cultural Resources OP/BP 4.11		x	
Indigenous Peoples OP/BP 4.10		x	
Involuntary Resettlement OP/BP 4.12	x		
Safety of Dams OP/BP 4.37		x	
Projects on International Waterways OP/BP 7.50		x	
Projects in Disputed Areas OP/BP 7.60		x	

#### V. Financing (in USD Million)

Total Project Cost:	18.50	Total Bank Financing:	0.00
Financing Gap:	0.00		
<b>Financing Source</b>		<b>Amount</b>	
Borrower		0.00	
Afghanistan Reconstruction Trust Fund		18.50	
Total		18.50	

#### VI. Contact point

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